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REMARKS

In the Office Action mailed July 31, 2002:

The drawings were objected to under 37 CFR 1.83(a) as failing to show every feature of the invention specified in the claims, namely, that “a monolithic member” must be shown or the feature canceled from the claims.

The drawings were objected to under 37 CFR 1.83(a) because reference numeral 202 points to two different structures.

Claims 1-6, 9-12 and 15-18 were rejected under 35 U.S.C. 102(e) as being anticipated by Bahl (U.S. Patent 6,072,160).

Claims 7-8, 13-14 and 19-20 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Drawings

Contrary to the Examiner’s assertion, “a monolithic member” is shown in the drawings. Neither a light pipe nor a reflector sleeve is shown in Figure 2. Rather, the reflector cavities 204 are formed in the monolithic lamphead structure. In fact, the specification on page 9, lines 18-20 clearly indicates just that: “[a]s shown in Figures 1 and 2, monolithic lamphead reflector 202 includes a plurality of reflector cavities 204 formed therein.” A monolithic lamphead is the result of this **formation** of the reflector cavities 204 into it. Accordingly, the applicant respectfully submits that the drawings do show the monolithic member.

As explained in the brief description of the drawings at page 4, lines 13-14 of the specification, Figure 2 is simply an enlarged side-view of the portion of the monolithic lamphead-reflector of Figure 1. However, as the Examiner has pointed out, the reference numeral 202 is inconsistently attached to the Figures. Accordingly, the reference numeral 202 has been deleted from Figure 2.

The applicant respectfully requests that the Examiner approve the change to Figure 2. The applicant submits that the drawings are now in a condition for allowance.

The Claims

Independent claims 1, 9, and 15 of the present invention are directed to a lamphead for use in semiconductor processing that includes lamp receptacles and reflector cavities formed in a monolithic member. “The monolithic design of the lamphead-reflector eliminates the need for reflector sleeves. By eliminating the reflector sleeve thickness and associated tolerances, the lamp-to-lamp centerline distances can be reduced.” Specification, page 12, lines 5-8. “This permits the use of more lamps which increases power.” Specification, page 12, line 10.

As the applicant described in the amendment (mailed June 21, 2002) in response to the office action (dated January 22, 2002), Bahl discloses a radiant energy assembly 38 (FIG. 1) with a plurality of light pipes 41 (FIG. 2). Inside each of the light pipes 41 is a specular reflector 159. However, the specular reflectors are defined within the light pipes 41; and the light pipes 41 themselves are not formed in a monolithic member. Rather, light pipes 41 are each secured to walls 42 and 43. As described in Bahl at col. 5, lines 17-22 with reference to FIG. 2:

The ends of the light pipes 41 are brazed, welded, or otherwise secured to the peripheral edge of the cooling chamber walls 42 and 43, and together therewith defines a cooling chamber 46.

Thus, rather than forming lamp receptacles and reflector cavities in a monolithic member, Bahl discloses forming a reflective cavity within each of a plurality of light pipes 41, then independently securing each light pipe 41 to chamber walls 42 and 43. Therefore, Bahl does not disclose lamp receptacles and reflector cavities formed in a monolithic member. Moreover, in describing an assembly in which a reflective cavity is formed within each of a plurality of light pipes and the light pipes are individually secured to a chamber, Bahl teaches away from the claimed monolithic structure of lamp receptacles and reflector cavities and cannot be said to suggest such a structure.

In response, on page 5 of the present office action, the Examiner has asserted that Bahl shows in Figure 2 and at col. 5, lines 29-52 a plurality of light pipes (41) with its wall

(152). It should be noted that the wall (152) is either inside or an integral part of the light pipe (41). *See* Bahl, col. 5, lines 31-34.

The Examiner's assertion fails to address the issue of whether Bahl teaches a monolithic member.

To anticipate a claim, the reference must teach every element of the claim. MPEP 2131. Independent claims 1, 9 and 15 all require a plurality of lamp receptacles and reflector cavities formed in a monolithic member. Bahl does not disclose or suggest forming a plurality of lamp receptacles and reflector cavities in a monolithic member. Since Bahl does not disclose forming lamp receptacles and reflector cavities in a monolithic member, independent claims 1, 9, and 15 are not anticipated. Dependent claims 2-6, 10-12, and 16-18 are patentable for at least the same reasons as independent claims 1, 9, and 15, respectively.

New ground for rejection (rationale to modify reference from legal precedent)

The Examiner relies upon a new ground for an obviousness rejection, namely that there is no patent weight for changing in form or shape, citing *Span-Deck, Inc. v. Fab-Con, Inc.* 677 F.2d 1237, 215 USPQ 835 (CA 8, 1982) and MPEP 2144.04 Changes in shape, *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

However, *Span-Deck, Inc. v. Fab-Con, Inc.* is not the applicable legal precedent. In *Span-Deck* the patent in question (the Mitchell patent) was directed to a system that incorporated a casting apparatus for manufacturing concrete planks. *Span-Deck* at 1238-39. The prior art references taught each element of the claimed invention. *Id* at 1243. The court found there was no invention because the claimed device was no more than the work of a skilled mechanic combining two devices both known in the prior art. *Id*.

The invention to which claims 1-31 are directed, on the other hand, is not simply a combination of two known devices. The applicant respectfully submits that a monolithic design for the lamphead is not prior art. Moreover, no alternatives or "means" are provided in the present application or the prior art of record for the "monolithic member." And, no combination of prior art references yields a monolithic member as claimed. Therefore, *Span-Deck* does not apply.

As for *Dailey*, that court indicated that a change of configuration could be patentable. The *Dailey* court held that the configuration of a claimed disposable plastic nursing container

was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant. MPEP 2144.04 Changes in Shape. In other words, and contrary to the Examiner's assertion, a disposable plastic nursing container with a given configuration potentially has patent weight if the given configuration is significant.

The monolithic member of the applicant's invention is significant for the reasons set forth in the specification: "The monolithic design of the lamphead-reflector eliminates the need for reflector sleeves. By eliminating the reflector sleeve thickness and associated tolerances, the lamp-to-lamp centerline distances can be reduced." Specification, page 12, lines 5-8. "This permits the use of more lamps which increases power." Specification, page 12, line 10.

Since the "configuration" of the monolithic member of the applicant's invention is significant, *Dailey* supports a finding of potential patentability.

The applicant submits that an alternative legal precedent supporting patentability is found in MPEP 2144.04 Making Integral, *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). In *Schenck*, claims were directed to a vibratory testing machine comprising a holding structure, a base structure, and a supporting means which form "a single integral and gaplessly continuous piece." Nortron argued that the invention is just making integral what had been made in four bolted pieces. The *Schenck* court found this argument unpersuasive and, instead, held that the claims were patentable because the prior art perceived a need for mechanisms to dampen resonance, whereas the inventor eliminated the need for dampening mechanisms via the one-piece gapless support structure, showing insight that was contrary to the understandings and expectations of the art.

With respect to the applicant's application, in every prior art reference of record that illustrates a lamphead, reflector sleeves are utilized. One of the advantages of the present invention is that it eliminates the need for reflector sleeves, which is contrary to the understandings and expectations of the art.

For the reasons given above, independent claims 1, 9, and 15 are allowable over the prior art references of record. The applicant respectfully submits that the 103 rejections on new grounds are overcome for the reasons given above. Claims 2-6, 10-12, and 16-18, which

depend from claims 1, 9, and 15, are allowable at least for the same reasons as claims 1, 9, and 15.

The final rejection is premature

The Examiner did not assert in any prior Office actions that prior art references of record taught a “monolithic member.” And the “monolithic member” was not added in an amendment by the applicant so as to necessitate a new ground for rejection.

According to the MPEP 706.07(a), second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement.

Accordingly, since the new ground of rejection is not necessitated by the applicant’s amendment of the claims and is not based on information submitted in an information disclosure statement, the applicant respectfully submits that a final action on the merits is premature. For this reason, the applicant respectfully requests reconsideration of the finality of the rejection in accordance with MPEP 706.07(d).

Allowable subject matter and new claims

The Examiner indicated claims 7-8, 13-14, and 19-20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In order to expedite passing these claims to issue, claims 7, 13, and 19 have been rewritten as independent claims as suggested by the Examiner.

New claims 21-25 are the same as claims 2-6 except that they depend from claim 7, instead of claim 1. New claims 26-28 are the same as claims 10-12 except that they depend from claim 13, instead of claim 9. New claims 29-31 are the same as claims 16-18 except that they depend from claim 19 instead of claim 15. The new claims are allowable because they depend from an allowable base claim.

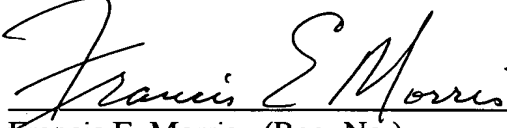
Rewriting the allowable claims as independent claims and introducing new dependent claims has changed the number of pending claims. The original number of independent claims was three and the total number of claims was 20. There are now six independent claims and 31 total claims. A fee sheet has been attached listing the associated fees.

In view of the foregoing, applicants believe that all of the claims are now in condition for allowance and respectfully requests the Examiner to pass the subject application to issue. If for any reason the Examiner believes any of the claims are not in condition for allowance, he is encouraged to phone the undersigned at (650) 849-7777 so that any remaining issues may be resolved.

Besides the amendment fee transmittal, no additional fee is believed due for filing this response. However, if a fee is due, please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150 (order no. 10732-0044-999). A copy of this sheet is enclosed for this purpose.

Respectfully submitted,

Date September 20, 2002


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